

ARTICLE APPEARED
ON PAGE A13NEW YORK TIMES
28 October 1985

A Riposte Costing \$160,000-\$1,001

By FRANCIS X. CLINES

Special to The New York Times

WASHINGTON, OCT. 27 — Without benefit of clipboard or Bach, William F. Buckley Jr. pursued his forte, the clash of ideas, from the witness chair here in Federal District Court this month, thrusting and riposting even as his power of interrogation was thwarted. "Am I allowed to ask a question, Your Honor?" he asked blandly as he testified in his hard-fought counterattack for libel against Liberty Lobby, a conservative organization far less well known as an idea forum than his own National Review.

"No, no," replied Federal District Judge Joyce Hens Green. "It's a one-way street, Mr. Buckley."

"Sorry," said the inquisitor.

Mr. Buckley nevertheless managed to hold the spotlight. He mixed caustic observation with his trademark "mm-hm" for "yes." He politely accepted the judge's caution against "editorial comment" in his answers while hardly shying from annotation. And he generally held his own in what at times seemed a bare-knuckle colloquy with Mark Lane, the lawyer for Liberty Lobby.

"How Am I Supposed to Behave?"

"Your Honor, when he asks a ludicrous question, how am I supposed to behave?" Mr. Buckley implored.

At another point, he said to Mr. Lane: "I decline to answer that question; it's too stupid." And, when Mr. Lane bored in with a chain of objections to an answer, Mr. Buckley fairly sighed as he said, "I'm terribly constipated by these constant interruptions."

When Mr. Lane asked the witness what his duties had been in his brief employment as a young man at the Central Intelligence Agency, Mr. Buckley cited his job-secrecy vow with relish: "None of your business."

Mr. Lane: "Have you referred to Jesse Jackson as an ignoramus?"

Mr. Buckley: "If I didn't, I should have."

Mr. Buckley used humor to deal with the frequent interruptions for the sotto voce haggling at the bench by lawyers. Asked by a forgetful lawyer whether his previously disrupted answer had been about a National Review anniversary dinner, Mr. Buckley replied: "Either that or I just gave you the good news about Ronald Reagan. I forget which."

The Hammer, the Blade

He applied sarcasm to one charge by the Liberty Lobby publication Spotlight that National Review had argued that "militant sex deviates" should have the right "to molest your children."

"Are you sure you have the date straight?" he replied, then offered his blade-like grin.

It was, in summary, Mr. Buckley on a different sort of firing line, holding little back as he pursued Liberty Lobby as a voice of "the crazed right," and rebutting Mr. Lane's contention that National Review was "racist, pro-Nazi and pro-fascist." This is the charge that critics have leveled at Liberty Lobby over the years for suggestions that blacks in the United States might feasibly be deported to Africa and that the Holocaust was a Jewish hoax.

Now, after a 14-year exchange of broadsides, Mr. Buckley has won on three of four libel counts, and Liberty Lobby has seen its two libel charges against National Review dismissed.

Judge Made Two Findings

Two of the findings in favor of Mr. Buckley were ordered by the judge, who ruled in a summary judgment that Liberty Lobby libeled National Review with the "sex deviate" charge and in printing that Mr. Buckley's magazine was a "mouthpiece" of the Anti-Defamation League of B'nai B'rith. The third victory came by verdict of a jury Friday evening that found libel in the charge that Mr. Buckley had a "close working relationship" with George Lincoln Rockwell, founder of the American Nazi Party. The jury found no libel in Liberty Lobby's printed charge that National Review had published a "muddled smear" in a 1971 article criticizing Liberty Lobby.

On the question of damages, however, the jury awarded only \$1,001 to National Review on the three affirmative counts, in contrast with the \$16 million Mr. Buckley sought.

"Buckley was arrogant on the stand and harmed his own case," said Mr. Lane, exulting at the low damages.

"He was not arrogant," said Mr. Buckley's lawyer, J. Daniel Mahoney. "He was provoked," he said, referring to Mr. Lane's strategy of trying to make National Review the

issue by scrutinizing the magazine's views on race across 30 years.

In the three-week jury trial, Mr. Lane pored over single phrases and words in National Review articles, frequently employing the American Heritage dictionary for which, it turned out, Mr. Buckley had written the introduction. One such word was "jig," as in "the jig is up," a phrase used in a 1966 National Review headline about the troubles of Representative Adam Clayton Powell Jr. of New York. Mr. Buckley said he had no idea then that the word could have a racist connotation. But Mr. Lane argued Mr. Buckley's mastery of words was renowned.

Mr. Lane: "Words are to you what shoes are to a cobbler, isn't that correct?"

"It's a clumsy metaphor because I don't make words like a cobbler makes shoes," Mr. Buckley replied. "I don't make words. I use words."

The Suit Cost a Bit

Mr. Lane later insisted that in many such contentious exchanges Mr. Buckley was losing the jury's sympathy. But Mr. Mahoney said the long and wordy fight was worth it to Mr. Buckley, even without a large damage award, because, while he did not initiate the libel suit, he wanted to discredit Liberty Lobby and Spotlight as responsible voices of the conservative movement. The suit cost National Review more than \$160,000, Mr. Buckley testified.

"Who did you pay that to?" asked Mr. Lane, leading up to Mr. Mahoney's law firm, Windels Marx Davies & Ives.

"Windels Marx — no relation," Mr. Buckley shot back, disclaiming the eponym of Marxism.

"Your Honor —," Mr. Lane began.

"Mr. Buckley —," the judge began to warn.

"Sorry, Your Honor," said Mr. Buckley, sounding the last word.